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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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OMAX CORPORATION, a Washington
corporation,

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Plaintiff,

Case No. C04-2334L

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v.

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FLOW INTERNATIONAL
CORPORATION, a Washington corporation,

ORDER GRANTING FLOW
INTERNATIONAL CORPORATION'S
MOTION TO DISMISS WITH LEAVE TO
REFILE

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Defendant.

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FLOW INTERNATIONAL
CORPORATION, a Washington corporation,

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Counterclaimant,

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v.

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OMAX CORPORATION, a Washington
corporation,

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Counterclaim Defendant.

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 This matter comes before the Court on "Flow's Motion and Memorandum to Stay or Dismiss

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with Leave to Refile Omax's Motion for Partial Summary Judgment of Invalidity and Unenforceability of

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Flow's '216 Patent on the Basis of Henning" (Dkt. # 100). In this motion, Flow argues that the Court

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will be better suited after the claim construction hearing to assess whether Flow's patent counsel

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ORDER GRANTING FLOW'S
MOTION TO DISMISS WITH
LEAVE TO RE-FILE

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1 intentionally misled the patent examiner during the prosecution of '216 patent. Flow argues that although

2 Omax stipulates to Flow's constructions of disputed claims for the purpose of its motion, the Court must

3 fully appreciate and determine the meanings of the claims. The Court agrees.

4   The Court will effect this relief by staying the motion for partial summary judgment on the '216

5 patent and allowing Omax to re-note the motion after claim construction. At that time, Omax will be

6 permitted to submit a new memorandum of law to accompany the motion if they wish to present new

7 arguments based on the Court's claim construction determinations.

8   For these reasons, IT IS HEREBY ORDERED that Flow's motion to stay (Dkt. # 100) is

9 GRANTED. In accordance with this relief, "Omax's Motion and Memorandum for Partial Summary

10 Judgment of Invalidity and Unenforceability of Flow's '216 Patent on the Basis of Henning" (Dkt. # 88)

11 is STAYED.

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13   DATED this 20th day of April, 2005.

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16   Robert S. Lasnik
                                                                      United States District Judge
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27 ORDER GRANTING FLOW'S
    MOTION TO DISMISS WITH   2
    LEAVE TO RE-FILE
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